

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff/Counter Defendant	)	
	)	
v.	)	Civil Action No. 05-0991 (DAR)
WILLIAM P. TEDARDS, JR. and	)	ECF
YVONNE TEDARDS,	)	
	)	
Defendants/Counter Claimants.	)	
_____	)	

PLAINTIFF’S MOTION FOR LEAVE TO AMEND COMPLAINT

Pursuant to Rule 15 of the Federal Rules of Civil Procedure, Plaintiff, the United States of America, by and through undersigned counsel, respectfully seeks leave to amend its Complaint so that it may include its claim for Defendants’ failure to pay restoration costs. Plaintiff has submitted a memorandum in support of this motion, along with a proposed Amended Complaint and proposed Order. See LCvR 15.1. Plaintiff’s counsel had consulted with Defendants about this motion and have been advised that Defendants may oppose the proposed amendment of Plaintiff’s complaint. See LCvR 7(m).

Dated: August 27, 2008

Respectfully submitted,

_____/s/_____
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United States Attorney

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Defendants/Counter Claimants.	)	

**MEMORANDUM IN SUPPORT OF PLAINTIFF’S MOTION FOR LEAVE TO AMEND
COMPLAINT**

In its initial Complaint, Plaintiff alleged a common law breach of contract claim against Defendants for their failure to pay the rent and fees required under the lease, the unjust enrichment of the Defendants for their failure to pay rent and fees, and for Defendants’ failure to pay the cost for restoration repairs. Plaintiff now seeks to amend Count I of its complaint to clarify that alleges a common law breach of contract claim against Defendants for their failure to pay rent, failure to pay late fees, and failure to pay the assessed restoration costs. Plaintiff also seeks to amend its Complaint by voluntarily dismissing Count II.

Rule 15(a) of the Federal Rules of Civil Procedure provides that when a party seeks leave to amend a complaint leave shall be freely given when justice so requires. Fed. R. Civ. Pro. 15(a). At the pre-trial conference on August 22, 2008, the Court, sua sponte, stated that it did not believe Plaintiff properly pled its allegation for unjust enrichment under Count II of its Complaint. The Court ordered Plaintiff to provide notice on or before August 27, 2008, as to whether it intended to voluntarily dismiss Count II or intended to file a memorandum showing cause as to why the Court should not dismiss Count II for lack of subject matter jurisdiction. In

the attached Amended Complaint, Plaintiff has withdrawn Count II. See Exhibit 1, Amended Complaint ("Ex. 1").

Further, at the pre-trial conference, the Court questioned whether the Plaintiff properly included its claim for restoration costs under Count I. It is Plaintiff's belief that Count I properly included its claim for restoration costs under the "notice pleading" standard in Federal Rule of Civil Procedure 8. Notice pleading merely requires a plaintiff to "allege sufficient facts of the case to 'give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests.'" Gore v. First Union Nat'l Bank, 20002 U.S. Dist. LEXIS 14396, Civil Action No. 01-2166(CKK) at *11 (D.D.C. 2002), citing Conley v. Gibson, 355 U.S. 41 (1957); See also Sparrow v. United Air Lines, Inc., 216 F.3d 1111, 1118 (D.C. Cir. 2000) (stating that Rule 8 requires that "the complaint give defendants fair notice of each claim and its basis") (internal citations omitted).

In this connection, Defendants agree that they had notice of, and were prepared to address at trial, Plaintiff's claim for restoration costs. Still, out of an abundance of caution, Plaintiff seeks to clarify that its Count I common law breach of contract specifically includes a claim for Defendant's failure to pay restoration costs in the amount of \$11, 572.84. See Ex. 1 at ¶ 33. Plaintiff therefore purposes to amend its complaint accordingly.

Accordingly, pursuant to Rule 15 of the Federal Rules of Civil Procedure, Plaintiff seeks leave of the Court to amend its Complaint. See Ex. 1. Granting Plaintiff's motion serves the interest of justice and will not prejudice Defendants, as this Motion merely seeks to conform the pleadings to intent and understanding shared by the Parties throughout the course of this matter.

Dated: August 27, 2008

Respectfully Submitted,

_____/s/_____
JEFFREY A. TAYLOR, D.C. Bar # 498610
United States Attorney

_____/s/_____
RUDOLPH CONTRERAS, D.C. Bar # 434122
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